

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5094 OF 2019

CHANGDEO GANPAT TAHKIK
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Shri Bhosale S.B.
AGP for Respondents: Shri Bhagat N.T.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: August 06, 2019
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PER COURT :-

1. The petitioner is aggrieved by the order dated 8.10.2015, passed by the Cooperative Court, by which, as an interim measure, certain properties of the petitioner have been attached and at the same time, the Bank has been directed not to dispose off the said properties or create any third party interest until further orders.

2. The contention of the petitioner is that the charge of mis-appropriation levelled upon him is false, bogus and unsustainable. He was never the Branch Manager at the relevant time, when the alleged mis-appropriation took place at the Rakshi Branch in Shevgaon Taluka. Even the enquiry officer has held that though the petitioner is not directly involved in the mis-appropriation, the first three charges are fully proved against the petitioner. My attention is drawn to the

several grounds formulated in the memo of the petition and it is canvassed that unless the charge is proved beyond doubt, no punishment can be awarded to the petitioner.

3. It cannot be overlooked that in service jurisprudence the Doctrine of 'Preponderance on the principles of probability' has to be invoked, while assessing as to whether the evidence on record could indicate that the charge sheeted employee may have committed the offence. In service jurisprudence, the manner of proving the charges is conceptually distinct and different from a criminal trial. Circumstantial evidence and as like in this matter concerning a Bank, evidence appearing through the record, is enough to prove the charges against an employee. The law crystallized by the Honourable Apex Court in the matter of State Bank of Patiala and others Vs. S.K.Sharma [AIR 1996 SC 1669], would squarely apply to this case.

4. I find from the Enquiry officer's report that amounts of about Rs.19,19,430/- have been misappropriated. This amount belong to the depositors. Though the persons actually in touch with the depositors and the money have been held guilty, it is un-assumable that the petitioner as a Branch Manager did not notice these acts being committed right under his nose. His involvement cannot be ruled out and, therefore, prima facie, the management has rightly

concluded that he is equally responsible.

5. In the light of these factors, I do not find that the impugned order could be termed as being perverse or erroneous.

6. This petition being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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